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6 UNITED STATES  
7 ENVIRONMENTAL PROTECTION AGENCY  
8 REGION 9

9 In The Matter Of: )

10 13133 AVENUE 416 )  
11 OROSI, CALIFORNIA )

ORDER

12 JOHN CASPAR HOVANNISIAN, SR. )  
Respondent )

88-06

13 PROCEEDING UNDER SECTION 106(a) )  
14 OF THE COMPREHENSIVE ENVIRONMENTAL )  
15 RESPONSE, COMPENSATION AND LIABILITY )  
ACT OF 1980 (42 U.S.C. 9606(a)) )

16 I. JURISDICTION

17 The following Order is issued on this date to JOHN CASPAR  
18 HOVANNISIAN, Sr. (Respondent), pursuant to Section 106(a) of the  
19 Comprehensive Environmental Response, Compensation and Liability  
20 Act of 1980 (CERCLA), 42 U.S.C. 9606(a), as amended by the  
21 Superfund Amendments and Reauthorization Act of 1986  
22 (SARA), Pub. L. No. 99-499, by authority delegated to the  
23 undersigned by the Administrator of the United States  
24 Environmental Protection Agency (EPA). Notice of the issuance  
25 of this Order has heretofore been given to the State of California.

26 The Director, Toxics and Waste Management Division, EPA  
27 Region 9 has determined that there may be an imminent and  
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1 substantial endangerment to the public health and welfare and the  
2 environment because of an actual or threatened release of hazardous  
3 substances from a site located at 13133 Avenue 416, Oroshi,  
4 California, APN# 25-132-16 (the "facility").

5 This Order directs the aforementioned Respondent to undertake  
6 actions to protect the public and the environment from this  
7 endangerment.

## 8 II. FINDINGS OF FACT

### 9 A. Background

10 1. The facility, located at 13133 Avenue 416, Oroshi,  
11 California, consists of two major structures and an upaved area.  
12 The site is currently abandoned. The California Department of  
13 Health Services (DHS) has reported that buried pesticide bags,  
14 stained soils and strong odors have been observed at the site.

15 2. The facility was formerly the location of a pesticide  
16 applicator business. In 1985, the Federal Government took  
17 control of the property to recover delinquent income taxes, and  
18 in July 1986 the property was purchased by John Hovannisian.

19 3. In November, 1986, the California Department of Health  
20 Services (DHS) began an investigation of the site in response to  
21 a complaint referral from the Tulare County Environmental Health  
22 Department. Subsequent investigation revealed that a pit on-  
23 site, believed to contain various chemicals and pesticide bags,  
24 had been recently filled in.

25 4. On April 27, 1987, DHS collected waste and soil samples  
26 from the site. Insecticide bags, labeled as Lannate (a trade  
27 name of methomyl), and "Puregro Parathion," were found buried at  
28 the facility.

1           5. Analysis of the waste and soil samples showed the  
2 presence of the methomyl (at a maximum concentration of 410,000  
3 parts per million (ppm)), ethyl parathion (55,000 ppm), and  
4 ethion (8,300 ppm), copper (202,000 ppm), p,p'DDT (19 ppm),  
5 Dicamba (1.0 ppm), 2,4-D (0.2 ppm), Silvex (0.1 ppm), and 2,4,5-T  
6 (0.1 ppm).

7           6. On November 19, 1987 DHS referred the facility to the U.S.  
8 Environmental Protection Agency (EPA).

9           7. The EPA has designated an On-Scene Coordinator (OSC) for  
10 the facility, pursuant to 40 C.F.R. Part 300.

11 B. Endangerment

12           8. Routes of Exposure. Pesticides at the facility have the  
13 potential to migrate into drinking water supplies. Domestic  
14 supply wells are located near the facility. The nearest private  
15 well serves a residence less than 100 yards from the facility.  
16 This well is gravel-packed to the surface. The depth to first  
17 water in this well was reported at 25 feet when the well was  
18 drilled in 1975. Five municipal supply wells operated by the  
19 Orosi Public Utilities District (District) are located within  
20 0.75 miles of the facility. The District wells serve  
21 approximately 5,000 people.

22           12. Substances of concern. The pesticides methomyl,  
23 ethyl parathion and ethion are cholinesterase inhibitors.  
24 Overexposure to these pesticides causes stimulation of the  
25 central nervous system and can be fatal. Symptoms of overexposure  
26 include headache, anorexia, nausea, weakness, diarrhea, tremor,  
27 cyanosis, coma, shock, respiratory failure, and death.  
28 Overexposure may occur through inhalation of dust containing the

1 pesticides, skin absorbtion, or direct ingestion.

2 III. CONCLUSIONS OF LAW

3 1. John C. Hovannissian is a "person" as defined in Section  
4 101(21) of CERCLA, 42 U.S.C. §9601(21).

5 2. The property located at 13133 Avenue 416, Orosi, California,  
6 is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C.  
7 §9601(9).

8 3. Respondent John C. Hovannissian owned or operated the facility  
9 at the time of the release or threatened release of pesticides  
10 from the facility occurred, and is a "responsible party," as  
11 provided in Section 107(a)(2) of CERCLA, 42 U.S.C. §9607(a)(2).

12 4. The pesticides methomyl, ethyl parathion, and ethion are  
13 "hazardous substances," as described in in Section 101(14) of  
14 CERCLA, 42 U.S.C. §9601(14).

15 5. There has been an actual "release", as defined in Section  
16 101(22) of CERCLA, 42 U.S.C. §9601(22), of hazardous substances  
17 from the facility into the environment.

18 6. There is a threat of "release", as defined in Section  
19 101(22) of CERCLA, 42 U.S.C. §9601(22) of hazardous substances from  
20 the facility into the environment.

21 IV. DETERMINATIONS

22 Based upon the foregoing Findings of Fact and Conclusions  
23 of Law, the Director, Toxics and Waste Management Division, EPA  
24 Region 9 has made the following determinations:

25 1. The release and threatened release of hazardous substances  
26 and pollutants or contaminants from the facility may present an  
27 imminent and substantial endangerment to public health and welfare  
28 and the environment.

2. In order to prevent or mitigate immediate and significant

1 risk of harm to human health and the environment, it is necessary  
2 that removal action be taken immediately to contain and prevent  
3 the release and potential release of hazardous substances,  
4 pollutants or contaminants from the facility.

5 3. The response measures ordered herein are consistent  
6 with the National Contingency Plan, 40 C.F.R. Part 300.

7 4. Respondent is liable for conducting the actions ordered  
8 herein, which are necessary to protect human health and the  
9 environment.

#### 10 V. ORDER

11 Based upon the foregoing Findings of Fact, Conclusions of  
12 Law and Determinations, Respondent is hereby ordered and directed  
13 to implement the following measures:

14 1. By January 4th, 1988, Respondent shall submit to EPA a  
15 written proposal with a schedule for the following activities:

- 16 a. Complete characterization of the areal and vertical  
17 extent and type of hazardous substances at the  
18 facility or originating from the facility, including  
19 sampling of soils.
- 20 b. Complete cleanup of presently identified hazardous  
21 substances and soil at the facility contaminated by  
22 hazardous substances or any soil contaminated by  
23 hazardous substances originating at the facility by  
24 January 31, 1988.
- 25 c. Sampling to establish whether the clean-up  
26 is complete.

27 The proposal shall include a site safety plan for the activities  
28 to be performed.

1        3. Within seven (7) calendar days of EPA approval of the  
2 proposal, Respondent shall begin implementation of the proposal.  
3 Respondent shall fully implement the proposal as approved by EPA  
4 within the time period set forth in the schedule.

5        4. Within fourteen (14) calendar days of the completion of  
6 clean-up activities pursuant to a proposal submitted in accordance  
7 with paragraph 1 of this Section, and approved by EPA, Respondent  
8 shall submit to EPA a written report on the results of the cleanup  
9 activities and soil and groundwater sampling.

10       5. Based on the cleanup report referenced in paragraph 4, above,  
11 EPA may determine that additional cleanup work is necessary to  
12 mitigate the release of hazardous substances. Within fourteen  
13 (14) days after receipt of EPA's notice regarding additional  
14 work, Respondent shall submit a proposal for performing the  
15 additional work.

16       6. No activities may be undertaken pursuant to this Order  
17 without the approval of EPA.

18       Respondents are further ordered as follows:

19                    VI. COMPLIANCE WITH APPLICABLE LAWS

20       In carrying out the terms of this Order, Respondents shall  
21 comply with all federal, state and local laws and regulations.  
22 All hazardous substances/wastes removed from the facility must be  
23 handled in accordance with Subtitle C and Subtitle D of the  
24 Resource Conservation and Recovery Act, 42 U.S.C. §6921 et seq.,  
25 and the Hazardous Waste Control Law, California Health and Safety  
26 Code §25100 et seq., and the regulations promulgated thereunder.

27                    VII. SUBMITTALS

28       All submittals and notifications to EPA pursuant to this

1 Order shall be made to:

2 Director, Toxics and Waste Management Division  
3 U.S. Environmental Protection Agency, Region 9  
4 215 Fremont Street  
5 San Francisco, California 94105

6 Copies of all submittals and notifications shall be sent to:

7 Robert Mandel  
8 On-Scene Coordinator, T-4-9  
9 U.S. Environmental Protection Agency, Region 9  
10 215 Fremont St.  
11 San Francisco, CA 94105

12 and:

13 Charles McLaughlin  
14 Northern California Section  
15 California Department of Health Services  
16 4250 Power Inn Rd.  
17 Sacramento, CA 95826

18 All approvals and decisions of EPA made regarding such  
19 submittals and notifications shall be communicated to Respondents  
20 by the Director, Toxics and Waste Management Division, U.S.  
21 Environmental Protection Agency, Region 9 or his designee.  
22 No informal advice, guidance, suggestions or comments by  
23 EPA regarding reports, plans, specifications, schedules or any  
24 other writing shall be construed to relieve the Respondents of  
25 their obligation to obtain such formal approvals as may be  
26 required herein.

#### 27 VIII. ACCESS

28 Respondent shall grant access to employees and authorized  
representatives of EPA, the California Department of Health Services,  
and the Tulare County Health Department to the facility. Nothing.



1 in this paragraph is intended to limit in any way the right of  
2 entry or inspection that EPA or any other agency may otherwise  
3 have by operation of law.

#### 4 IX. ON-SCENE COORDINATOR

5 EPA has appointed an On-Scene Coordinator (OSC) who has  
6 the authority vested in the "On-Scene Coordinator" by 40 C.F.R.  
7 Part 300, et seq., published at 42 Fed. Reg. 31180 (July 16,  
8 1982). That authority includes, without limitation, the right  
9 to: be on-site at all reasonable times; observe, take photographs  
10 and make other reports on the progress of the work as the OSC  
11 deems appropriate; and review records, files and documents  
12 relevant to the Order.

#### 13 X. ENDANGERMENT DURING IMPLEMENTATION

14 In the event that the Director, Toxics and Waste Management  
15 Division, EPA, Region 9, or the OSC determines that any activities  
16 (whether pursued in implementation of or in noncompliance with  
17 this Order) or circumstances are endangering the health and  
18 welfare of people on the site or in the surrounding area or to  
19 the environment, the Director or the OSC may order the Respondent  
20 to stop further implementation of this Order for such period of  
21 time as needed to abate the endangerment.

#### 22 XI. GOVERNMENT LIABILITIES

23 The United States Government shall not be liable for any  
24 injuries or damages to persons or property resulting from the  
25 acts or omissions of the Respondent, his employees, agents or  
26 contractors in carrying out activities pursuant to this Order,  
27 nor shall the Federal Government be held as a party to any  
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1 contract entered into by the Respondent, or his agents in carrying  
2 out activities pursuant to this Order.

3 XII. PENALTIES FOR NONCOMPLIANCE

4 A willful violation or failure or refusal to comply with  
5 this Order, or any portion thereof, may subject you to a civil  
6 penalty of not more than \$25,000 per each day in which a violation  
7 occurs or such failure to comply continues, pursuant to the  
8 provisions of Section 106(b)(1) of CERCLA, 42 U.S.C. §9606(b)(1).  
9 Failure to comply with this Order, without sufficient cause, may  
10 also subject you to punitive damages in an amount up to three  
11 times the total of all costs incurred by the Government as a  
12 result of your failure to take proper action, pursuant to the  
13 provisions of Section 107(c)(3) of CERCLA, 42 U.S.C. §9607(c)(3).

14 EPA may take over the removal action at any time if EPA  
15 determines that the Respondent is not taking appropriate action  
16 to mitigate the site hazard. In the event EPA assumes responsi-  
17 bility for the removal action, the Respondent shall be liable for  
18 all costs incurred by EPA to mitigate the site hazard. EPA may  
19 order additional removal or remedial actions deemed necessary by  
20 EPA to protect the public health and welfare or the environment.

21 XIII. OPPORTUNITY TO CONFER

22 You may request a conference with the Director, Toxics and  
23 Waste Management Division, EPA Region 9 or his staff to discuss  
24 the provisions of this Order. At any conference held pursuant  
25 to your request, you may appear in person or by counsel or other  
26 representatives for the purpose of presenting any objections,  
27 defenses or contentions which you may have regarding this Order.  
28 If you desire such a conference, you must make such request  
orally or in writing within one (1) week of receipt of this

1 Order.

2 Please make any such request to either of the contact persons  
3 listed below.

4 XIV. PARTIES BOUND

5 This Order shall apply to and be binding upon the Respon-  
6 dent, his officers, directors, agents, employees, contractors,  
7 successors and assigns.

8 XV. NOTICE OF INTENT TO COMPLY

9 Immediately upon receipt of this Order, the Respondent shall  
10 orally inform EPA of its intent to comply with the terms of this  
11 Order. This shall be confirmed in writing by January 4, 1988.  
12 Failure to notify EPA of the Respondent's intent to comply will be  
13 construed by EPA as a refusal to comply.

14 XVI. EFFECTIVE DATE

15 Notwithstanding any conferences requested pursuant to the  
16 provisions of this Order, this Order is effective upon receipt.

17 It is so ordered on this 23 day of December, 1987.

18  
19 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

20  
21 By: Jeff Zelikson

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23 JEFF ZELIKSON  
24 DIRECTOR, TOXICS & WASTE MANAGEMENT DIVISION  
25 U.S. EPA, REGION 9  
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1 Contacts

2 Robert Mandel  
3 Field Operations Branch T-4-9  
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